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MCI

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FEDERAL COMMUNICATIONS COMMISSION
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August 22, 1994

Mr. William Caton
Acting Secretary
Federal Communications Commission
Room 222
1919 M Street, NW
Washington, DC 20554

Re: In the Matter of Pacific Bell Petition for Rulemaking to Amend Section 69.106 of the Commission's Rules

Dear Mr. Caton:

Enclosed herewith for filing are the original and four (4) copies of MCI Telecommunications Corporation's Opposition To Petition for Rulemaking and Petition to Reject the above captioned matter.

Please acknowledge receipt by affixing an appropriate notation on the copy of the MCI Petition furnished for such purpose and remit same to the bearer.

Thank you,

Christopher Bennett

Christopher Bennett
Analyst

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of:	)	
	)	
Pacific Bell Petition for Rulemaking to Amend Section 69.106 of the Commission's Rules	)	RM-8496

OPPOSITION TO PETITION FOR RULEMAKING

MCI Telecommunications Corporation (MCI) hereby opposes the above-captioned Petition filed by the Pacific Bell Telephone Company on June 30, 1994.

Pacific Bell proposes to restructure the local switching charges mandated in Section 69.106 of the Commission's rules. [1] These rules require local exchange carriers (LECs) to establish a usage sensitive local switching charge assessed on a per minute of use basis. Pacific Bell proposes to identify call set-up costs and recover them via a charge assessed on each call. The remaining call maintenance costs would continue to be recovered on a minute of use basis. This per minute charge would be lower relative to current rates to reflect the removal of the call setup costs.

Pacific Bell presents various arguments to support its rulemaking request.

[1] 47 C.F.R. Section 69.106.

It suggests the current rate structure is an uneconomic structure that is inflating cost and motivating customers to leave the public switched network for private line services.[2] Pacific Bell argues that by bundling call set-up costs into the local switching rate, it over-recovers call set-up costs from customers making longer calls and under-recovers from those making shorter calls. Also, Pacific Bell believes the use of the network has changed. It cites "explosive growth" in calls of less than one minute as a major factor in that change, noting that it expects that growth to continue.[3]

MCI opposes Pacific Bell's proposal and urges the Commission to deny its request for rulemaking. As discussed below, its case for a rule change is based on misleading or inconclusive facts, and resurrects an argument the Commission previously rejected in 1989.

MCI believes that the decision to grant or deny Pacific Bell's petition should be made from the perspective of recent changes in access rate structures and pricing flexibility for LECs. The Commission's price cap regulations, for example, permit the LECs to change prices on a streamlined basis within Commission-established limits that generally allow prices to increase 5 percent per year or fall 5 percent per year. [4] In addition, LECs can

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[2] In the Matter of Pacific Bell Petition for Rulemaking to amend Section 69.106 of the Commission's Rules, RM-8496, filed June 30, 1994, (Pacific Bell Petition), pp. 1, 9.

[3] Id., pp. 1 and 7.

[4] 47 C.F.R. Section 61.47(e)(1).

decrease rates beyond the rate band established by the rules, provided they file with their tariff cost support demonstrating the rate is above average variable cost.[5] While LECs must adhere to the rate structure imposed by Part 69, the rate level flexibility the Commission has granted is substantial.

In examining Pacific Bell's case for a rulemaking, MCI believes Pacific's factual showing is inconclusive and unpersuasive. Pacific argues that: (1) its average call length is 3.86 minutes; (2) a call of less than 1 minute in length does not recover all of its cost; and (3) there are more short calls currently than in the past.[6] These facts are inconclusive.

Pacific Bell asserts that usage of the network has fundamentally changed and that short calls are the cause. If that is true we should see average call lengths decreasing over time. However in 1989, Bell Atlantic stated its average call length was 3.575 minutes.[7] After almost five years, Pacific Bell's average call length is 0.285 minutes longer than Bell Atlantic's. While there may be some regional differences in average call length, it seems ludicrous to think Pacific Bell's average call length was so much greater than Bell Atlantic's that it could be reduced by "explosive" short call growth and still exceed Bell

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[5] 47 C.F.R. Section 61.49(d).

[6] Pacific Bell Petition, filed June 30, 1994, pp. 2, 6.

[7] In the Matter of Petition for Waiver of Sections 69.106 and 69.205 of the Commission's Rules to Permit a Call Setup Charge, filed May 24, 1989 (Bell Atlantic Petition), Workpaper 7-2. E.g., Opposition to Petition for Waiver and Petition to Reject, filed June 6, 1989 (Allnet Communications Services, Inc. Petition), p. 5.

Atlantic's five-year-old average call length by 7 percent.[8]

In addition, contrary to the assertions in Pacific Bell's proposed rulemaking, its interstate access revenue growth exceeds any of its other revenue categories from 1991-1993.[9] That does not appear to be consistent with the exodus of customers from the public switched network that Pacific Bell argues will occur.

Pacific Bell also neglects to provide evidence that shows short call volume and growth compared to other length calls. The impact of the growth in short calls could easily be inconsequential if it is a relatively small part of all calls and/or if other calls are growing at a rate that renders short calls insignificant. Pacific Bell has not included the kind of call detail that would allow a fair analysis of its claims about the impact of short duration calls.

The greatest disservice in Pacific Bell's petition it that is diverts attention away from the real issue, <u>i.e.</u>, high prices. In its 1989 petition, Bell Atlantic stated that its per call set up costs were $0.0058.[10] If we assume a 4 percent inflation rate, Bell Atlantic's cost in 1994 would be $0.0073. Pacific Bell states that its "...direct cost (plus overheads) to set up a call is $0.01621 today," 2.2

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[8] Pacific Bell Petition, *supra* note 3, at 2.

[9] 1993 Pacific Telesis Group Annual Report, p F-16, showing "Network Access - interstate" increased by a total of 6.99 percent from 1991-1993 compared to 4.20 percent for "Local service" and 3.31 percent for "Other service revenues". All other revenue categories declined.

[10] Bell Atlantic Reply Comments, filed June 16, 1989, p. 4.

times higher than Bell Atlantic's.[11] Can one LEC be almost twice as inefficient as another in call setup? While there are many possible explanations for the differences, it is the inefficiency reflected in Pacific Bell's cost that should be the primary focus of access charge policy. Moreover, this is an issue that Pacific Bell can remedy, due to the rate level flexibility granted under the price cap rules.

In addition to the unpersuasive case Pacific Bell presents on behalf of its proposed rulemaking, the Commission should also consider that a previous attempt to redesign the local switching elements was rebuffed. In 1989, the Commission rejected Bell Atlantic's petition for waiver to establish a call set-up charge. Bell Atlantic argued it would suffer financial hardship, caused by a proliferation of short duration calls, if it was unable to implement a call set-up charge.[12] Despite that gloomy statement MCI notes that Bell Atlantic's "Network access" revenue grew a total of 5 percent from 1991-1993.[13] Today, Pacific Bell has clothed that same emperor in transparent garb and asks the Commission to see a difference. There is no substantive difference between Bell Atlantic's request and Pacific Bell's, and no reason to find a different result from the 1989 decision.

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[11] Pacific Bell Petition, filed June 30, 1994, p. 6.

[12] Bell Atlantic Reply Comments, *supra* note 10.

[13] 1993 Bell Atlantic Annual Report, p 15

CONCLUSION

For the reasons discussed above, MCI urges the Commission to deny Pacific Bell's petition for rulemaking to amend Section 61.106 of the Commission's rules.

Respectfully submitted,

MCI TELECOMMUNICATIONS CORPORATION

BY: Christopher Bennett

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Dated: August 22, 1994

STATEMENT OF VERIFICATION

I have read the foregoing, and to the best of my knowledge, information, and belief there is good ground to support it, and that it is not interposed for delay. I verify under penalty of perjury that the foregoing is true and correct. Executed on August 22, 1994.

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CERTIFICATE OF SERVICE

I, Gwen Montalvo, do hereby certify that copies of the foregoing Opposition to Petiton were sent via first class mail, postage paid, to the following on this 22nd day of August 1994.

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